

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,)
)
Plaintiff,)
) CRIMINAL NO. 11-CR-30108-DRH
vs.)
)
RICHARD J. KLEMIS,)
)
Defendant.)

**GOVERNMENT'S NOTICE OF INTENT TO INTRODUCE EVIDENCE UNDER RULE
804(b) (3), "EXCEPTIONS TO THE RULE AGAINST HEARSAY"**

Comes now the United States of America, by Stephen R. Wigginton, United States Attorney for the Southern District of Illinois, and Robert L. Garrison, Assistant United States Attorney for said District, and states as follows:

Several witnesses whom the Government intends to call in this case heard Tyler McKinney, a deceased heroin user, make statements concerning the fact that the Defendant had been supplying McKinney with heroin, and/or using McKinney to further the Defendant's heroin distribution activities. The Government submits that all of the following testimony is relevant, and should be admitted because the statements made clearly "expose the declarant...to criminal liability," as set out in Rules of Evidence Rule 804(b)(3)(B):

- 1) Lorenzo Wagner is expected to testify that a few weeks before McKinney's death, McKinney told Wagner that "I drive Richard to St. Louis to buy heroin from his [Defendant's] supplier," and also that "I buy heroin from Richard."
- 2) Nancy Singleton is expected to testify that she was McKinney's girlfriend, and that McKinney told her shortly before he died, "Richard is my regular heroin supplier;" and "I drive Richard to St. Louis to buy heroin and he gives me free heroin," and "I'm sorry I took your

ring. I owe Richard money.” Singleton will further testify that on one occasion McKinney got up and left her presence stating, “I have to make a run for Richard.” Singleton will further testify that McKinney told her, “Richard is an illegal immigrant from Britain. He lives in Belleville.” Singleton is expected to testify that McKinney made all these statements during the month prior to his death.

3) Garrett Libra is expected to testify that approximately three weeks before McKinney died, McKinney told Libra that “I owe Richard between \$400 and \$500.”

4) Ian Dorcey is expected to testify that a few weeks before McKinney’s death, Dorcey had seen the Defendant riding with McKinney in McKinney’s black Mitsubishi Eclipse. Dorcey will further testify that McKinney explained to Dorcey, “the reason he [Defendant] was in my car was because I’ve been driving him [Defendant] to St. Louis.”

Conclusion

The Government submits that all of these quoted statements are “supported by corroborating circumstances that clearly indicate its trustworthiness,” as Rule 804(b)(3)(B) requires. For example, Nicole Feyerbend will testify that she saw the Defendant inject McKinney with heroin on four separate occasions. Alexis Carmack will testify that she saw Defendant inject McKinney with heroin on several occasions, and that she was with McKinney and Defendant when McKinney drove Defendant to St. Louis to buy heroin. Multiple other witnesses will testify that they bought heroin from Defendant themselves and saw Defendant sell heroin to others. Thus there is substantial corroborating evidence to support the admission of the statements which McKinney made, as quoted above.

Respectfully submitted,

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Certificate of Service

I hereby certify that on January 8, 2015, I caused GOVERNMENT'S NOTICE OF INTENT TO INTRODUCE EVIDENCE UNDER RULE 804(b) (3), "EXCEPTIONS TO THE RULE AGAINST HEARSAY" to be electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing(s) to the following:

William D. Stiehl, Jr.

Respectfully submitted,

STEPHEN R. WIGGINTON
United States Attorney

s/ Robert L. Garrison

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